

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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PUBLIC EMPLOYMENT
RELATIONS BOARD

MARILYN S. CORBIN,

Appellant,

and

STATE OF IOWA (DEPARTMENT OF
PERSONNEL),

Appellee.

CASE NO. 96-MA-06

RULING

On March 26, 1996, an administrative law judge (ALJ) of the Public Employment Relations Board (PERB or Board) issued a proposed decision and order in a state employee grievance appeal in which the ALJ proposed dismissal of the appeal. On April 5, 1996, the grievant, Marilyn S. Corbin, timely filed a petition for review of the ALJ's proposed decision pursuant to PERB rule 11.8. Corbin did not serve the State with a copy of the petition for review, but the State became aware of the pendency of the petition when a PERB staff person called the State's representative on or about May 30, 1996, to schedule oral arguments on the petition. The State received a copy of the petition from PERB on June 10, 1996.

On June 11, 1996, the State filed a motion to dismiss Corbin's petition for review based on her failure to serve the State with a copy of the petition as required by PERB rule 9.2(1). That rule provides:

621—9.2(20) Appeals to board.

9.2(1) Notice of appeal. An appeal to the board from a proposed decision of an administrative law judge in a contested case proceeding shall be commenced within 20 days of the filing of the proposed decision by

filing a written notice of appeal with the board. The appealing party shall serve a copy of the notice upon all opposing parties as provided in rule 621—2.15(20), or by ordinary mail upon the parties' attorneys of record.

The Board has previously determined that strict compliance with service provisions in the Public Employment Relations Act and PERB rules is not required. See, e.g., Bettendorf Peace Officers Association, 80 PERB 1688. In Kenneth Ross and State of Iowa, 84 H.O. 2562, service made on the wrong party was found to be sufficient where the correct party received actual notice of a pending proceeding and no prejudice was shown from the improper service.


In the present case, the State in fact received a copy of Corbin's petition for review and has shown no prejudice from receiving the copy from PERB rather than from Corbin. Accordingly, we hereby issue the following:

RULING

The State's motion to dismiss Corbin's petition for review is denied.

DATED at Des Moines, Iowa this 17th day of June, 1996.

PUBLIC EMPLOYMENT RELATIONS BOARD


Richard R. Ramsey, Chairman


M. Sue Warner, Board Member